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September 18, 2023

VIA ECF

Hon. Jennifer H. Rearden
U.S. District Court, S.D.N.Y.

Re: *Ulku Rowe v. Google LLC*, Case No. 1:19-cv-08655-JHR

Dear Judge Rearden:

We represent Google LLC ("Google") in this matter. Pursuant to Federal Rule of Civil Procedure 43(a), we respectfully request leave for Google witness Jess Swale to testify remotely at the trial scheduled to commence on October 4, 2023. We have conferred with Plaintiff and she does not oppose the requested relief.

I. Factual Background

Jess Swale is an Administrative Business Partner at Google who resides in California. Google designated her as a witness to testify about, *inter alia*, her interactions with Plaintiff. She was not deposed in this case. Ms. Swale is undergoing medical treatments that will require frequent and sometimes unscheduled visits to her doctor's office in California through October 2023, which requires her to remain in the area during this timeframe. Ms. Swale has provided Google with a letter from her doctor to support this request. Should the Court wish to review the letter, Google respectfully requests that it make the letter available for *in camera* inspection to preserve the confidentiality of Ms. Swale's medical information.

II. Good cause exists to permit Ms. Swale to testify remotely.

The Federal Rules of Civil Procedure provide that "[f]or good cause in compelling circumstances and with appropriate safeguards, the court may permit testimony in open court by contemporaneous transmission from a different location." Fed. R. Civ. P. 43(a). Appropriate safeguards are ensured by modern videoconference technology, which "allows for live synchronized audio and visual feeds" *Castillo Frias v. Martinez*, No. 19-cv-2792, 2021 WL 2661093, at *1 (E.D.N.Y. June 28, 2021).

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Good cause exists to permit Ms. Swale to testify remotely, because she has “reported [a] health condition[] imposing significant restrictions on [her] ability to travel to court” *Sawant v. Ramsey*, No. 07-cv-980, 2012 WL 1605450, at *3 (D. Conn. May 8, 2012) (granting motion to permit remote testimony pending movants’ submission of “letters from their respective doctors indicating that they remain unable to attend trial and listing the reasons for the restriction on their ability to travel”).

III. Conclusion

For the foregoing reasons, Google respectfully requests that this Court permit Ms. Swale to testify remotely at trial. We thank the Court for its consideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "K. Gage", with a checkmark at the end.

Kenneth W. Gage
PAUL HASTINGS LLP